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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1920.

No. 538. 130

KEOKUK & HAMILTON BRIDGE COMPANY, APPELLANT,

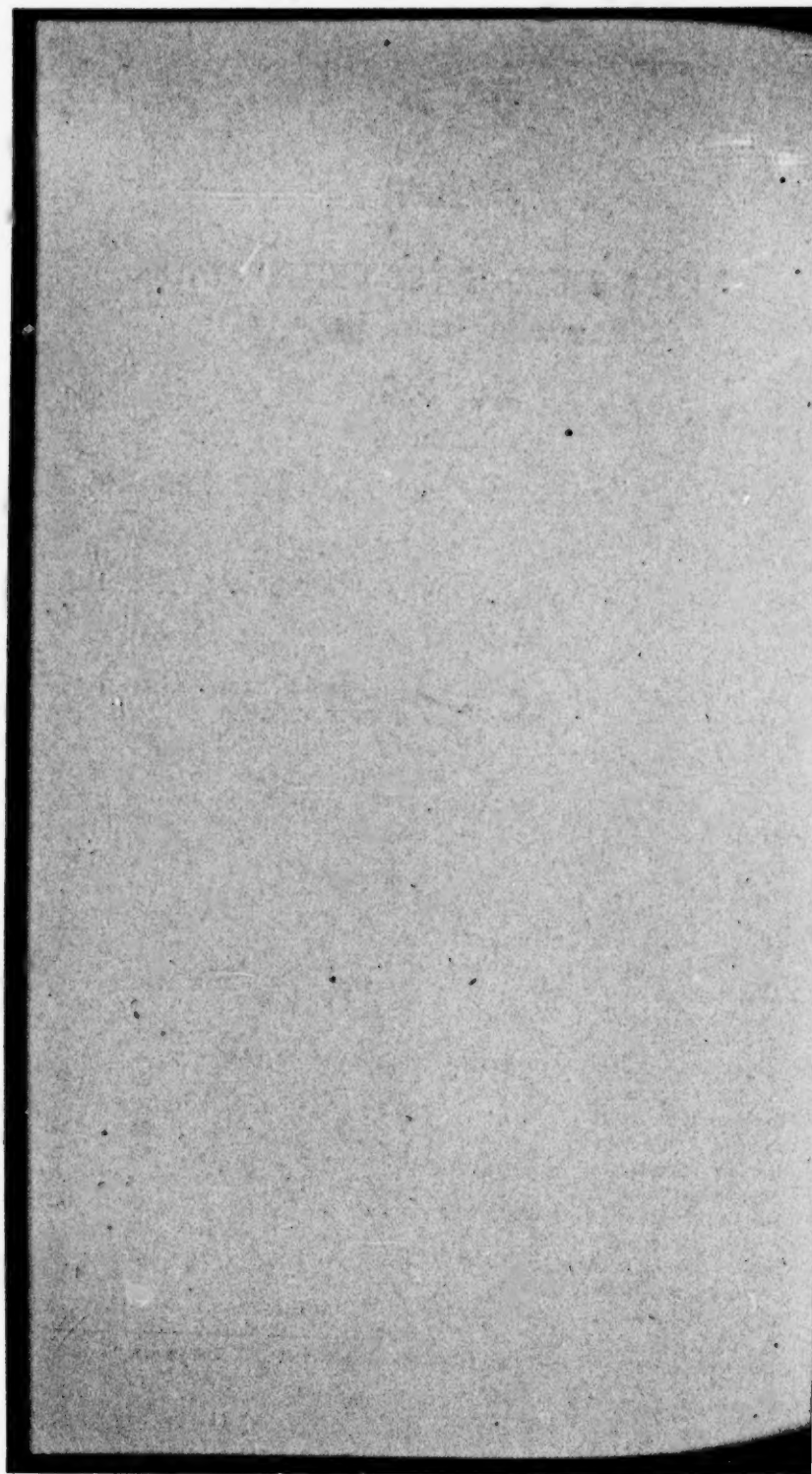
vs.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER,
ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF ILLINOIS.

FILED AUGUST 22, 1920.

(27,869)



(27,869)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1920.

No. 512.

KEOKUK & HAMILTON BRIDGE COMPANY, APPELLANT,

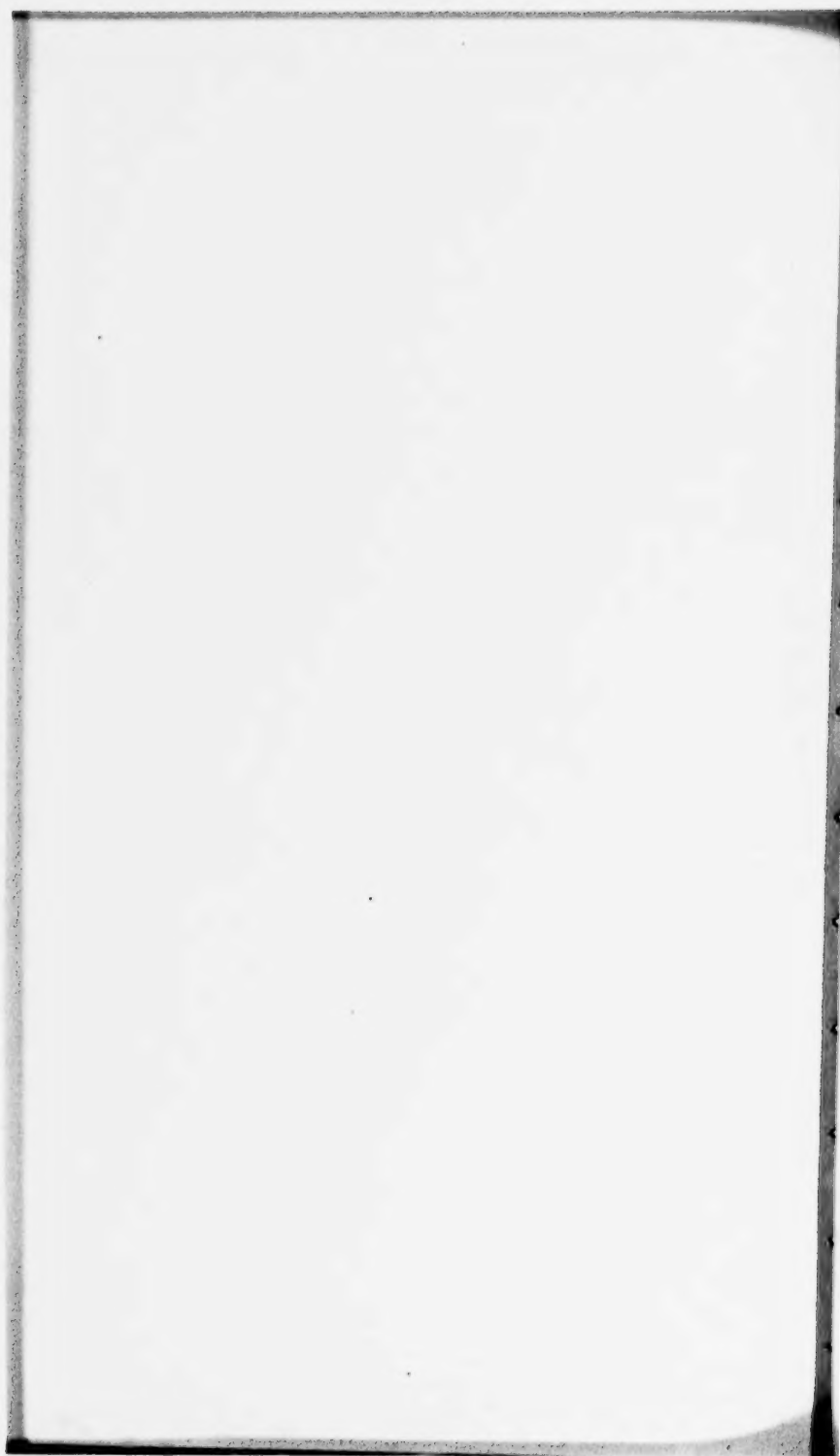
vs.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER,
ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF ILLINOIS.

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1 Pleas in the District Court of the United States of America within and for the Southern Division of the Southern District of Illinois, held at the City of Springfield, within said division and district, before the Honorable Louis Fitzhenry, Judge of said court, on Saturday, the 26th day of June, in the year of our Lord one thousand nine hundred and twenty, and of the Independence of the United States the one hundred and forty-fourth.

2 In Equity.

No. 87.

KEOKUK & HAMILTON BRIDGE COMPANY, Complainant.

VS.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER, ARCH C. Williams, J. H. Helms, and Chas. S. Tyler, Defendants.

Be it remembered that heretofore to wit: On the 12th day of March in the year of our Lord one thousand nine hundred and nineteen, that being one of the days of the January Term A. D. 1919, of the District Court of the United States for the Southern Division of the Southern District of Illinois, came the complainant in the above entitled cause by its solicitors and filed a bill of complaint, which said bill of complaint, was and is in the words and figures, following, to wit:

3 In the District Court of the United States for the Southern Division of the Southern District of Illinois.

In Equity.

KEOKUK & HAMILTON BRIDGE COMPANY, Complainant.

VS.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER, ARCH C. Williams, J. H. Helms, and Chas. S. Tyler, Defendants.

To the Judges of the District Court of the United States for the Southern Division of the Southern District of Illinois:

Your Orator, the Keokuk & Hamilton Bridge Company, a corporation, brings this its bill of complaint against Fred Salm, Jr., County Treasurer and Ex Officio Collector of Hancock County, Illinois; Elmer F. Dennis, Local Assessor; William E. Miller, County Clerk; Arch C. Williams, J. H. Helms and Charles S. Tyler, Board of Review, all in said County and State.

The complainant and defendants are citizens of the State of Illinois but complainant claims that the matters and things in this bill of complaint involve the Constitution and Laws of the United States and the amount in controversy exceeds, exclusive of interest and costs, the sum or amount of three thousand dollars and your Orator represents and shows to your Honors;

That the complainant, Keokuk & Hamilton Bridge Company is a corporation formed by consolidation of the Hancock County Bridge Company organized under a special act of the Legislature of the State of Illinois, approved February 13th, 1865, and said act was public act.

4 That there also existed prior to 1868 a corporation known as the Keokuk & Hamilton Mississippi Bridge Company, organized and existing under the general laws of the State of Iowa. That by the terms of these corporate acts or charters the respective companies had authority to consolidate their rights, privileges and immunities forming a third or new corporation and said corporations did so consolidate and form such third corporation by the name of the Keokuk & Hamilton Bridge Company, the complainant herein.

That thereafter in pursuance of the powers thus conferred and under authority of an act of Congress passed July 25th, 1866, said corporation began and constructed in the years about 1868 and 1869 the Keokuk & Hamilton Bridge, and that said Bridge was constructed for the principle purpose and use for the passage of railroad trains and said Bridge Company became a Railroad Company and its said Bridge a railroad.

That said bridge was so built across the Mississippi River between the towns or cities of Keokuk, Iowa, and Hamilton, Illinois, and that said bridge had a railroad track across the same which extended from the lands East of the Mississippi River by approaches to connections with certain railroads connecting therewith and extending eastward through the State of Illinois and westward by approaches from the westerly end of said bridge over the lands in the State of Iowa to connections with railroads terminating or extending further westward through the State of Iowa so that when said bridge was completed and put in operation it was a railroad forming a connecting link between the railroads in Illinois and Iowa and thereafter when so completed railroad trains began to pass over said line of railway and over said bridge and its railroad track to and from the places hereinafter set forth.

5 Your Orators further show unto your Honors that the defendants in their individual as well as official characters, have proceeded in times and manner, as they claim, prescribed by the laws of the State of Illinois, to assess your Orators' property as hereinafter described by metes and bounds as hereinafter set forth, whereas in truth and in fact your Orators' property is not lands but a railroad track and railroad property.

That defendants have assessed said property for the alleged taxes against the same for the year 1918 at and for the sum of five thousand, seven hundred, seventy dollars and are now and have been so proceeding to complete said assessment and taxation for said year

to the end that the said amount so taxed can be made a charge and lien upon said property and said property sold to satisfy said taxes, all of which to the great and irreparable injury of complainant and in violation of its rights and property under the provision of the Constitution and laws as will more fully and at large hereinafter appear.

The property alleged to be assessed and so taxed against your Orator is described as follows:

The Hancock County Bridge Co., called the Keokuk Bridge Co. also called the Keokuk & Hamilton Bridge Co., all of the land of the Keokuk & Hamilton Bridge Co., situated in Hancock County, Illinois and lying and being in and on Island No. 4 in the S. W. Quarter of Section (30) Thirty in Township Five (5) North Range Eight (8) West in said County and extending (westerly) into the Mississippi River to the state line between the States of Illinois and Iowa and more particularly described as follows: to-wit: A strip of land 80 ft. wide more or less the center line of said strip of land commencing at a point in the center of the railroad avenue in a plat of ground known as the Keokuk and Hamilton Ferry and Manufacturing Cos., add. too the City of Hamilton in said County 6 707 $\frac{3}{4}$ ft. South 72 degrees 40' E. of the Center of the E. end of said Bridge, thence running North 72 degrees 40' west to the east end of said bridge, thence continuing the same course along the center line of said Bridge 1,567 ft. to the state line between the states of Illinois and Iowa including the slopes, walls and embankments, abutments, piers and bridge structure and improvements thereon S. E. 30, 5, 8, giving the final equalized assessed value of all lands for taxation as \$100,000. This taxable value under the laws of the state of Illinois being supposed to be one third of the total value of all of said property, which is three times said amount or \$300,000 total assessment.

Your Orator further shows unto your Honors, that the defendants as individuals and in their official capacities have assessed your Orator's property as alleged on a basis of about 150 per cent valuation, whereas in truth and in fact the defendants as individuals and assessors of this County and State arbitrarily, intentionally and systematically as shown, assessed the property of individuals and of corporations within the sphere of duty at a total taxable value of said property of forty per cent of its fair cash value: That the fact that such systematic assessment upon said basis annually for many years past has been a matter of public notoriety in the state.

Your Orator further shows that under the laws and Constitution of the State of Illinois all property real and personal must and shall be uniformly assessed at such fair and equal valuations, that the defendants by their acts as individuals and official capacity as herein assessing and seeking to collect taxes against your orator on this unfair, unequal and discriminatory valuation and in defiance of the Constitution and laws of said state and denying to your Orators the equal protection of the laws and seeking to take Orator's property without due process of law within the meaning of the 14th Amendment to the Constitution of the United States.

8 Your Orator further shows that it is the owner of about fifteen or sixteen hundred feet of railroad track in said County and State, in fact said railroad track is the main thing of value which defendants assessed as lands and your Orator avers that under the laws of the State of Illinois said railroad track can only be assessed by the State Board of Equalization and the said County assessors have no jurisdiction whatever to assess said railroad track for any purpose; and your Orator further shows unto your Honors that defendants have so assessed complainants' said property, arbitrarily, systematically and intentionally at over one hundred per cent of its said actual value.

Whereas defendants have intentionally, systematically and persistently assessed other classes of property of similar character and value at about forty per cent of such fair cash value and thereby is and has deprived complainant of the equal protection of the laws and taking complainant's property without due process of law within the meaning of the Fourteenth Amendment to the Constitution of the United States.

That unless restrained and enjoined by this Honorable Court the defendants will individually and as such officials proceed in every way to becloud by judgment or otherwise complainant's said property and will cause judgments to be entered upon said alleged delinquent list against complainant's said property and to have execution issued and complainant's property sold at execution to satisfy such illegal and void taxes and in all these and other ways irreparably injure and destroy complainant's Bridge and railroad track and property.

9 Wherefore complainant prays that the defendants and each of them, whether as individuals or as officials, in said taxing matters, be enjoined and forever restrained from so doing; And your Orator further shows that since the acts and doings of defendants are now going on and will result in the wrongful acts herein complained of before this litigation may terminate, your Orator prays that an injunction pendente lite — herein, and such other relief as the equities of the case may require.

To the end therefore that the defendants may show if they can, why your Orator, complainant herein, should not have relief herein prayed for, and may make true and perfect answers accordingly to the best of their respective knowledges and belief to the several matters herein set forth the same as if they would specifically here repeat, but not under oath, answer under oath being waived.

May it please your Honors to grant to your Orators a writ of Subpoena and respondentem, issuing out of and under the seal of this Honorable Court to the said defendants and each of them, as such defendants commanding them and each of them to be and appear and make answer under this bill of complaint and to perform and abide by such order and decree or decrees as the Court may see fit in equity and good conscience to decree herein.

DAVID E. MACK,
Solicitor for Complainant.

F. T. HUGHES,
Of Counsel.

10 STATE OF IOWA,
Lee County, ss:

John H. Cole, herein, being duly sworn deposes and says that he is General Manager of the complainant herein, The Keokuk & Hamilton Bridge Company, that he has read the said bill of complaint and nows the contents thereof; and the same is true as to the matters therein said to be alleged upon information and belief and that as to these matters he believes them to be true.

J. H. COLE.

STATE OF IOWA,
Lee County, ss:

Subscribed and sworn to before me, the undersigned notary public in and for the County and State aforesaid this 8th day of March, 1919.

[Notarial Seal.]

F. T. HUGHES,
Notary Public.

My commission expires July 4, 1919.

Indorsed: Filed Mar. 12, 1919. R. C. Brown, Clerk.

11 And afterwards, to wit: on the 12th day of March A. D. 1919, there was issued by the Clerk of said Court, a writ of Chancery Subpoena herein, which said Writ of Chancery Subpoena, together with the Marshal's return thereon, was and is in the words and figures, follownig, to wit:

12 UNITED STATES OF AMERICA,
*Southern District of Illinois,
Southern Division, ss:*

The United States of America to Fred Salm, Jr., county treasurer and ex officio collector of Hancock County, Illinois; Elmer F. Dennis, local assessor; William E. Miller, county clerk; Arch C. Williams, J. H. Helms, and Charles S. Tyler, board of review, all of Hancock County, Illinois, Greeting:

We Command you and every of you, That you appear before our Judge of our District Court of the United States of America, for the Southern District of Illinois, at Springfield, in said District, on the 1st day of April, A. D. 1919, at 9 o'clock A. M. to answer the complainant's bill of complaint of Keokuk & Hamilton Bridge Company, a corporation, this day filed in the office of the Clerk of said Court in the City of Springfield, then and there to receive and to abide by such judgment and decree as shall then or thereafter be made, upon pain of judgment being pronounced against you by default.

To the Marshall of the Southern District of Illinois to Execute.

Witness the Honorable Louis Fitz-Henry Judge of the District Court of the United States for the Southern District of Illinois, at Springfield, aforesaid, this 12th day of March in the year of our Lord one thousand nine hundred and nineteen and of our Independence the 143rd year.

[SEAL.]

R. C. BROWN,

Clerk.

Memorandum.

The above named defendants are notified that unless they and each of them shall file their answer or other defense in the office of the Clerk of said Court, at Springfield, aforesaid, on or before the 20th day after service of this process, excluding the day of such service, the bill of complaint filed herein will be taken against them as confessed, and a decree entered accordingly.

[SEAL.]

R. C. BROWN,

Clerk.

13 UNITED STATES OF AMERICA,
Southern District of Illinois,
Southern Division, ss:

I have duly executed the within writ by reading the same and delivering a true copy thereof to Mrs. Myrtle Salm, wife of and an adult member of the family of the within named Fred Salm, Jr.; to the within named William E. Miller, County Clerk; to Mrs. Daisy Helms, wife of and an adult member of the family of the within named J. H. Helms; to Mrs. Cleo Tyler, wife of and an adult member of the family of the within named Chas. S. Tyler and to the within named Arch C. Williams at Carthage, Hancock County, Illinois, and by reading the same and delivering a true copy thereof to Martha E. Dennis, wife of and an adult member of the family of Elmer E. Dennis at Hamilton, Hancock County, Illinois. All done this 14th day of March A. D. 1919.

V. Y. DALLMAN,

U. S. Marshal.

By J. E. DRESSENDORFER,

Deputy.

Marshal's fees \$23.54.

The within named Fred Salm, Jr., Elmer F. Dennis; J. H. Helms and Chas. S. Tyler not found in this district.

Indorsed: Filed Mar. 17, 1919. R. C. Brown, clerk.

14 And afterwards, to wit: on the 1st day of April A. D. 1919, there was filed in the office of the Clerk of said Court, a certain motion to dismiss, which said motion to dismiss was and is in the words and figures, following, to wit:

STATE OF ILLINOIS,
County of Hancock, ss:

In the District Court of the United States for the Southern Division
of the Southern District of Illinois.

In Equity.

KEOKUK & HAMILTON BRIDGE COMPANY, Complainant,

VS.

FRED SALM, ELMER F. DENNIS, WILLIAM E. MILLER, ARCH C.
WILLIAMS, J. H. HELMS, and CHAS. S. TYLER, Defendants.

Motion to Dismiss.

Now comes all of the defendants in the above entitled action and move the Court to dismiss this action, and that it takes its costs in this suit incurred for the following reasons:

1. Because the plaintiff has a remedy at law and does not aver in the bill that it has exhausted said remedy.
2. Because the bill does not aver that the complainant has filed its objections in the County Court to the taxes, the collection of which is sought to be enjoined in this suit.
3. Because the bill does not aver that the plaintiff made complaint, as required by law, to the assessment of taxes complained of in this suit, to the Board of Review or to the local assessor.
4. Because no ground of equitable jurisdiction is sufficiently averred in the bill in this suit.
5. That there is insufficiency of fact to constitute a valid cause of action in equity against the defendant.
6. Because it is not averred in the bill that the property of plaintiff that is assessed is a part of a railroad system and that said railroad system is owned by the plaintiff.
7. Because it appears from the Statutes and decisions of the courts of the State of Illinois and of the United States that the plaintiff was properly assessed by the local assessor and the Board of Review.
8. Because the bill does not properly aver wherein the 14th amendment to the Federal Constitution is violated.
9. Because the decision of the Supreme Court of the State of Illinois and of the United States in the tax cases against this plaintiff bars the plaintiff from the relief sought in said bill and the position taken by the plaintiff in these cases estops it from urging this objection.

10. Because the bill does not aver fraud in the valuation of the property of plaintiff.

EARL WOOD,
Solicitor for Defendants.

Indorsed: Filed April 1, 1919. R. C. Brown, clerk.

16 And afterwards, to wit: on the 10th day of April A. D. 1919, the following further proceedings were had in said Court in said cause and were entered of record to wit:

In the District Court of the United States for the Southern District of Illinois, Southern Division.

In Equity.

No. 87.

KEOKUK & HAMILTON BRIDGE COMPANY, a Corp.,

vs.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER, ARCH C. WILLIAMS, J. H. HELMS, and CHARLES S. TYLER.

Thursday, April 10th, 1919.

Court met pursuant to adjournment.

Present, the Honorable Louis Fitz Henry, Judge.

And now on this 10th day of April A. D. 1919 comes the complainant herein by Messrs. D. E. Mack and Felix T. Hughes, its solicitors and comes also defendants by Earl W. Wood, Esq., their solicitor and upon motion of the complainant by its solicitors, leave is granted the said complainant to file an amendment to the bill of complaint herein. And the Court after hearing the arguments of said solicitors on the motion of complainant for a temporary injunction and on the motion of defendants to dismiss the bill and amendment thereto, takes the same under advisement.

17 And afterwards, to wit: on the 10th day of April A. D. 1919, there was filed in the office of the Clerk of the District Court of the United States for the Southern District of Illinois, a certain Amendment to Bill of Complaint, which said Amendment to Bill of complaint, was and is in the words and figures, following, to wit:

18 In the District Court of the United States for the Southern
 2, Division of the Southern District of Illinois.

In Equity.

KEOKUK & HAMILTON BRIDGE COMPANY, Complainant,

VS.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM F. MILLER, ARCH C.
 WILLIAMS, J. H. HELMS, and CHAS. S. TYLER, Defendants.

Amendment to Bill of Complaint.

To the judges of the district court of the United States for the southern division of the southern district of Illinois:

Your Orator, The Keokuk & Hamilton Bridge Company, a corporation, brings this amendment to its bill of complaint against Fred Salm, Jr., County Treasurer and Ex-Officio Collector of Hancock County, Illinois; Elmer F. Dennis, Local Assessor; William E. Miller, County Clerk; Arch C. Williams, J. H. Helms, and Chas. S. Tyler, Board of Reviews, all in said County and State.

First. That by the laws of the State of Illinois taxes are assessed against the property and not against the owner and when so assessed became a lien and cloud upon complainant's title to said property and that the same is true in the case herein, and as complainant herein shows the taxes in the instant case are illegal and void this Honorable Court should take jurisdiction of this cause and cause said cloud upon complainant's title to be removed.

Second. That in the levy and collection of the taxes, as shown in complainant's bill of complaint herein, it becomes and is the duty of the collector, under the law of the State of Illinois, to pay the sum of the taxes so received in the proportion designated in his tax books, to the County Treasurer of the County of Hancock and other officials and authorities entitled to receive the same, and if defendants should institute suit to recover back, the taxes so paid, the complainant would be obliged to bring separate suits against each one of the several taxing bodies, receiving its proportionate share of the tax, thereby necessitating a multiplicity of suits, and the proportion of the tax, which would go to the State of Illinois, could not be collected back by any legal proceedings whatsoever, and that by reason thereof, the
 19 appellee, your Orator would be subject to great and irreparable
 injury for which there is no complete and adequate remedy
 at law.

Third. Your Orator further represents and shows unto your Honors, that your Orator's bridge and track as in its said bill of complaint herein shown, begins on the land in the State of Illinois and extends to the Mississippi river and across the same to the State

of Iowa and to a connection with the railroad in said State on the west side of the said river and bridge becomes and is a unit inseparable, and with a capital stock, covering the entire property, and to levy and sell that portion of said railroad track and bridge within the State of Illinois, would sever and destroy said bridge and railroad engaged in interstate commerce would do a great damage and injury to your Orator and the people of the United States, and would be denying to your Orator, the equal protection of the law and take your Orator's property without due process of law. All in violation of the Fourteenth Amendment of the Constitution of the United States.

Complainant reaffirming the matters and things in its original bill of complaint, herein prays for the same relief as in its original bill, it has so prayed, and such other relief as the equity of the case may require.

F. T. HUGHES,

D. E. MACK,

Complainant's Solicitors of Record

F. T. HUGHES,
Of Counsel.

Verified.

Indorsed: Filed April 10th, 1919. R. C. Brown, clerk.

20 And afterwards, to wit: on the 26th day of June A. D. 1920, the following further proceedings were had in said Court in said cause and were entered of record to wit:

In the District Court of the United States for the Southern District of Illinois, Southern Division.

In Equity.

No. 87.

KEOKUK & HAMILTON BRIDGE CO.

vs.

FRED SALM, JR., et al

Saturday, June 26th, 1920.

Court met pursuant to adjournment.

Present, the Honorable Louis Fitz Henry, Judge.

And now on this 25th day of June A. D. 1920, comes again the parties to this cause by their respective solicitors and the court having heretofore heard the arguments of said solicitors on the motion of the complainant for a preliminary injunction and on the motion of defendants to dismiss the bill of complaint herein and being now fully advised in the premises, it is ordered that the motion of the

complainant for a preliminary injunction herein, be, and the same is hereby denied, and that the motion of the defendants to dismiss the bill of complaint herein, be, and the same is hereby allowed. It is further ordered and adjudged by the Court that the defendants recover from the said complainant, their costs and charges about their defense in that behalf expended, and that execution issue therefor.

21 And afterwards, to wit: on the 26th day of June A. D. 1920, there was filed in the office of the Clerk of said Court by the Judge thereof, a memorandum of the views of the Court, which said memorandum of the Court's views was and is in the words and figures, following, to wit:

United States District Court, Southern District of Illinois, Southern Division.

In Equity.

No. 87.

KEOKUK & HAMILTON BRIDGE COMPANY

vs.

FRED SALM, JR., County Treasurer and ex Officio Collector of Hancock County et al.

Memorandum of Views of the Court.

Plaintiff is a corporation owning and operating a bridge across the Mississippi River from Hamilton, Illinois to Keokuk, Iowa, and seeks to enjoin the County Treasurer of Hancock County and others, both as individuals and taxing officers, from assessing a tax and enforcing the collection thereof against plaintiff's property. The reasons assigned are:

(1) That the defendants have proceeded, as they claim, under the laws of Illinois to assess plaintiff's property by metes and bounds, as real estate, when in fact its property is a railroad track and railroad property. The Bill describes the property of the plaintiff by metes and bounds, giving the equalized assessed value thereof for taxation as \$100,000, being one-third of the fair cash value of said property, \$300,000.

(2) That defendants have assessed plaintiff's property at about one hundred fifty per cent valuation, whereas, they have assessed property of individuals and corporations at forty per cent of its fair cash value; that by so doing defendants violate the Constitution of Illinois and the 14th Amendment of the Federal Constitution.

22 (3) That plaintiff's property should be assessed by the State Board of Equalization and not by the county assessors,

That unless restrained and enjoined, defendants will proceed in every way to becloud by judgment or otherwise, plaintiff's property and to enforce the collection of the said illegal and void taxes.

(4) That the injunction should be granted as prayed to avoid a multiplicity of suits, and the further fact that there is no plain, adequate and complete remedy at law, as a portion of the taxes never could be recovered by reason of it being distributed among the various taxing bodies.

Defendants move to dismiss the bill for the following reasons:

(1) The plaintiff has a remedy at law and does not aver it has exhausted such remedy.

(2) The bill does not aver that the plaintiff has filed its objection in the County Court to the taxes, the collection of which is sought to be enjoined.

(3) The plaintiff does not aver that it made complaint as required by law to the assessment of the taxes complained of to the Board of Review or legal assessor.

(4) No ground of equitable jurisdiction is sufficiently averred in the bill.

(5) That there is an insufficiency of fact to constitute a valid cause of action in equity against the defendants.

(6) It is not averred in the bill that plaintiff's property as assessed is a part of a railroad system and that said railroad system is owned by the plaintiff.

(7) It appears from the Statutes and decisions of the courts of the State of Illinois and the United States that the plaintiff was properly assessed by the local assessor and Board of Review.

23 (8) Because the bill does not properly aver wherein the 14th Amendment to the Federal Constitution is violated.

(9) Because the decisions of the Supreme Court of the State of Illinois and of the United States in the tax cases against the plaintiff bar the plaintiff from the relief sought in said bill and the position taken by the plaintiff in these cases estops it from urging this objection.

(10) The bill does not aver fraud in the valuation of plaintiff's property.

Suits in equity shall not be sustained in any court of the United States in any case where a plain, adequate and complete remedy at law may be had. Judicial Code, Sec. 267, U. S. Comp. Stat. Ann. 1916, par. 1244.

In the Federal Courts the distinction between law and equity is maintained, and remedies afforded by law and equity are separately pursued. *Gibson v. Shoto*, 13 Wall. 92, 102.

If there is a plain, adequate and complete remedy at law in this

case, then this Court is without jurisdiction and the motion to dismiss should be allowed.

Plaintiff, being a bridge company and the owner of a structure across a boundary stream, comes clearly within the purview of the Illinois Statute, entitled, "An Act to provide for the Assessment and Taxation of Bridges Across the Navigable Waters on the Borders of this State." Approved and in force May 1, 1873. *Anderson v. C. B. & Q. R. Co.* 117 Ill. 26; *C. & A. R. Co. v. People* 153 Ill. 409; *People v. A. T. & S. F. R. Co.* 206 id. 252; *Keokuk & Hamilton Bridge Co. v. People* 145 id. 596; *Keokuk & Hamilton Bridge Co. v. People*, 161 id. 132; *Keokuk & Hamilton Bridge Co. v. People*, 161 id. 514; (writ of error dismissed, 173 U. S. 702); *Keokuk & Hamilton Bridge Co. v. People*, 176 Ill. 267; *People, ex rel. McAllister v. Keokuk & Hamilton Bridge Co.*, 287 id. 246.

24 That act provides that a bridge Company whose property is so circumstanced "shall be assessed by the township or other assessor in the county or township where the same is located, as real estate; and all provisions of law relating to the assessment and taxation of real estate, shall apply to the assessment and taxation of such bridges." The Statutes of Illinois give the owner of property the right to appeal to the assessor to have his property assessed properly for taxes. If dissatisfied, with the assessment, the owner has a right then to appeal to the Board of Review. If any irregularities or illegalities creep into the assessment as made and equalized by the Board of Review, then the owner may resist a tax based upon the assessment on that ground when the county collector attempts to enforce the collection of the tax by seeking a judgment against the property and an order of sale for taxes from the county court of the county in which the real estate is located. At the hearing in the County Court upon this application for judgment, defendant is entitled to raise any meritorious objection which he may have to "any irregularity or informality in the assessment rolls or tax lists, or in any of the proceedings connected with the assessment or levy of taxes, or any omission or defective act of any officer or officers connected with the assessment or levying of such taxes," and the court is vested with the discretion to correct, supply and make the proceedings conform to law or to compel the person (in the presence of the court) from whose neglect or default the irregularities, informalities or illegalities complained of, were occasioned to correct the same." Ill. Rev. Stat. Chap. 120, Sec. 191, 5J & A. Ill. Stat. Ann., Sec. 9410, pp. 5542.

Should the objector or property owner feel aggrieved at the judgment of the county court he is given the right by the Revenue Act of Illinois to appeal directly to the Supreme Court of Illinois, or to sue out a writ of error from said court and thereby have the judgment of the county court and its ruling upon the objections aforesaid reviewed by the Supreme Court. Ill. Rev. Stat. Chap. 120, Sec. 192.

This latter statute provides, among other things, that the appeal or writ of error shall act as a supersedeas if the tax payer shall deposit with the county collector (county treasurer) an amount of

money equal to the amount of the judgment and costs. The statute further provides "If upon a final hearing judgment shall be refused for the sale of the lands or lots for the taxes or any part thereof, the collector shall pay over to the party who shall have made such deposit, or his legally authorized agent or representative, the amount of the deposit, or so much thereof as shall remain, for the satisfaction of the judgment against the premises in respect of which such deposits shall have been made." 5J & A. Ill. Stat. Ann., Sec. 9411, pp. 5554-5.

The litigation discussed in the opinion of the Supreme Court in *People ex rel. McCallister, County Collector of Hancock County v. Keokuk & Hamilton Bridge Co.*, 287 Ill., 246, was an appeal under Section 192, *supra*. The objections in the County Court involved substantially all of the questions raised by the bill of complaint in this case except the charge that the assessment of plaintiff's property is unfair, unequal and discriminatory in defiance of the Constitution and laws of said State and "denying to your orators the equal protection of the laws and seeking to take orator's property without due process of law within the meaning of the 14th Amendment to the Constitution of the United States," that it has no plain, adequate and complete remedy at law and that equity should intervene to avoid a multiplicity of suits. The objections, however, in the County Court of Hancock County charge that plaintiff's property "was arbitrarily, knowingly and fraudulently assessed at its full market or cash value while all other property was assessed at about forty per cent of its fair cash value and the assessment was approved by the Board of Review." In plaintiff's bill the allegation is that plaintiff's property is "arbitrarily, systematically and intentionally" assessed at over one hundred per cent of its actual value.

In the *McCallister* case, *supra*, the Illinois Supreme Court said:

"An arbitrary, known and intentional violation of the rule of uniformity is an invasion of the constitutional right and will not be tolerated. It will be sufficient for an objector to show such willful and intentional violation of the constitutional provisions and where an assessment shows a very great disparity and discrimination, which could not reasonably have arisen from an error of judgment the courts will give relief. (*Raymond v. Chicago Union Traction Co.*, 207 U. S. 20.)"

It is apparent from a reading of the bill in this case that plaintiff believes its property is assessed at a rate higher than it should be. In the *McCallister* case it was charged that it was fraudulently placed at the assessed value shown and the highest court in the state has shown that Sections 191 and 192 afford a tax payer a plain, adequate, complete and speedy remedy.

Relative to the charge that plaintiff is denied the equal protection of the laws of Illinois and that the assessment of its property as indicated amounts to a taking of property without due process of law within the meaning of the 14th Amendment to the Federal Consti-

tution. It has long been the rule that a law authorizing the imposition of a tax or assessment upon property according to its value does not infringe that provision of the 14th Amendment to the Constitution, which declares that no State shall deprive any person of property without due process of law, if the owner has an opportunity to question the validity or the amount of it either before that amount is determined or in subsequent proceedings for its collection. *McMillen v. Anderson*, 95 U. S. 37; *Davidson v. New Orleans*, 96 U. S. 97; *Hager v. Reclamation District*, 111 U. S. 701, 4 Sup. Ct. 663; *Spencer v. Merchant*, 125 U. S. 345, 8 Sup. Ct. 921; *Palmer v. McMahon*, 133 U. S. 660; 10 Sup. Ct. 324; *Lent v. Tillson*, 140 U. S. 316, 11 Sup. Ct. 825; *Railway v. Backus*, 154 U. S. 421; 14 Sup. Ct. 1114.

It is contended by plaintiff that *Raymond v. Chicago Union Traction Co.*, 203 U. S. 20, is conclusive authority to sustain its contention that the plaintiff here is without a plain, adequate and complete remedy at law and that this court should take jurisdiction of the case. In the opinion in that case no legal proposition is made clearer than that equity will not intervene where there is a plain and adequate remedy at law. On page 39 of the opinion in that case, it is recited that there was in existence in Tennessee a statute providing for paying over the amount of the alleged illegal tax to the officer holding the warrant and granting to the tax payer the right to sue to recover back the taxes thus paid; also providing that the tax when originally paid before suit should be paid into the state treasury, where it was to remain until the question was decided. The opinion expressly says, on page 39:

"There is no statute of a similar nature in Illinois which has been called to our attention, but some of the cases in the State hold that such a suit may be maintained against the collector when the money was paid under protest."

Our attention has been called to Section 191 and 192 of Chapter 120 of the Revised Statutes of Illinois above referred to and discussed, and by a reading of the opinion on the *McCallister* case *supra*, we see the remedies provided by the statute in actual operation, and while the plaintiff in that litigation may not be satisfied with the final result of the litigation it is having, yet, this Court cannot say as a matter of law that the remedies provided in the laws of Illinois are not plain, adequate and complete. It is apparent that the tax payer can have the questions of irregularity, illegality and informality of the tax called in question, have his case heard upon the merits in a tribunal especially provided by the laws of Illinois for that purpose, and if aggrieved to have the judgment of the court reviewed by the highest court in the state; and if successful in his litigation the tax payer will receive the amount paid to the collector without the slightest loss and without being put to the inconvenience or expense of the commencement of a single law suit. The remedies provided in these sections of the Revenue Act of Illinois affording such complete relief as they

do, make it unnecessary for the General Assembly to enact a statute authorizing the commencement of the independent action.

It is contended upon the authority of *Shaffer v. Carter*, (March 1, 1920), 666666 U. S. —, and *Wallace, et al. v. Hines, et al.*, (April 21, 1920) —, U. S. —, that the mere fact that the tax is a lien upon the title of the tax payer and beclouds the same, that equity should intervene to remove the cloud. An examination of those two cases discloses that the Supreme Court is still holding in line with its earliest expressions that "there is jurisdiction in equity, unless there is an adequate remedy at law," and which, of course, is in line with the provisions of the Judicial Code on that subject (Sec. 267).

From this discussion we conclude that plaintiff has a plain, adequate and complete remedy at law and it is, therefore, unnecessary to discuss the other questions raised by the defendant's motion.

The motion to dismiss will be allowed and it is so ordered.

Indorsed: Filed June 26, 1920. R. C. Brown, clerk.

29 And afterwards, to wit: on the 13th day of July A. D. 1920, there was filed in the office of the Clerk of the District Court of the United States for the Southern District of Illinois, a certain petition for appeal, which said petition was and is in the words and figures, following, to wit:

30 In the District Court of the United States for the Southern Division of the Southern District of Illinois.

In Equity.

KEOKUK & HAMILTON BRIDGE CO., Complainant,

vs.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER, ARCH C. WILLIAMS, J. H. HELMS, and CHAS. S. TYLER, Defendants.

Petition for Appeal.

To the Honorable Louis Fitz Henry, district judge:

The above named complainant feeling aggrieved by the decree rendered and entered in the above entitled cause on the 26th day of June, A. D. 1920, does hereby appeal from said decree to the Supreme Court of the United States for the reasons set forth in the assignment of errors filed herewith, and complainant prays that its appeal be allowed and that citation be issued as provided by law, and that a transcript of the record proceedings and document upon which said decree was based, duly authenticated be sent to the Supreme Court of the United States, sitting at Washington, D. C., under the rules of such court in such cases made and provided.

And your petitioner further prays that the proper order relating to the required security to be required of complainant be made.

F. T. HUGHES &

D. E. MACK,

Solicitors and of Counsel for Complainant.

Indorsed: Filed July 13, 1920. R. C. Brown, clerk.

31 And afterwards, to wit: on the 13th day of July A. D. 1920, there was filed in the office of the Clerk of the District Court of the United States for the Southern District of Illinois, a certain assignment of errors, which said assignment of errors, was and is in the words and figures, following, to wit:

32 In the District Court of the United States for the Southern Division of the Southern District of Illinois.

In Equity.

KEOKUK & HAMILTON BRIDGE Co., Complainant.

vs.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER, ARCH C. WILLIAMS, J. H. HELMS, and CHAS. S. TYLER, Defendants.

Assignment of Errors.

Now comes the complainant in the above entitled cause and files the following assignment of errors upon which it will rely upon its prosecution of the appeal in the above entitled cause, from the decree made by the honorable court on the 26th day of June, 1920.

1.

That the said District Court erred in sustaining the motion to dismiss interposed by the defendants and appellees herein to complainant's said bill of complaint.

2.

That the said United States District Court erred in holding that the complainant had a plain, adequate and complete remedy at law and therefore that the said District Court had no jurisdiction in the cause.

3.

That the Court erred in not holding that it had equitable jurisdiction to remove the cloud upon complainant's said property cast by a lien of the alleged illegal levy of said taxes.

4.

The Court erred in holding that complainant was not entitled to equitable relief as against the said invalid tax levy.

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5.

The Court erred in not holding that equity has jurisdiction to restrain the collection of the tax assessed upon the property of a complainant's corporation when made at a different rate, and a different method from that employed by other corporations for the same class, for the same year and resulting in a material discrimination against the complainant's corporation shown in the bill of complaint.

6.

The Court erred in holding that the complainant's corporation was not a railroad corporation owning railroad track which could only be assessed by the State Board of Equalization under Section 109, Chapter 120, Revised Statutes of the State of Illinois and not by the township assessors as lands.

7.

Complainant's bill of complaint shows that it is for the most part a railroad forming a link of certain railroads in the State of Illinois, with railroads in the State of Iowa, engaged in the Interstate Commerce between said States with a franchise from said States and the United States, with corporate stock and bonds and was assessed on a mileage basis on the part in Illinois bears to the whole line in the respective States and the Court erred in holding under the circumstances that the laws of the State of Illinois in such cases furnished complainant with a complete and adequate remedy at law.

8.

The complainant shows that its Bridge property is part railroad and part railroad track and was assessed by the township assessors as lands and in a lump sum and that the railroad part can only be assessed by the State Board and the whole assessment is therefore void and the Court erred in holding the assessment valid and that the complainant had a plain, adequate and complete remedy at law in the premises.

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9.

The Court erred in holding that complainant could not enjoin the collection of said tax to save a multiplicity of suits in recovering said taxes back when the same would be distributed to the various parties entitled to the same and especially that part which would go to the State because the State can not be sued therefor.

10.

The Court erred in holding that the Illinois Revised Statutes, Chapter 120, Section 192, provides the complainant with a plain, adequate and complete remedy at law *and* therefor.

11.

The remedy provided in said Chapter 120, Section 192, is uncertain and speculative and doubtful and the Court erred in holding the same afforded the plaintiff a plain, adequate and complete remedy at law.

12.

The Court erred in not granting complainant's temporary injunction or restraining order as prayed for in complainant's bill of complaint.

F. T. HUGHES &
D. E. MACK,

Solicitors & Counsel for Complainant.

Indorsed Filed July 13, 1920. R. C. Brown, clerk.

35 And afterwards, to wit: on the 26th day of July A. D. 1920, the following further proceedings were had in said Court in said cause and were entered of record to wit:

36 In the District Court of the United States for the Southern Division of the Southern District of Illinois.

In Equity.

No. 87.

KEOKUK & HAMILTON BRIDGE COMPANY, Complainant,

vs.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER, ARCH C. WILLIAMS, J. H. HELMS, and CHAS. S. TYLER, Defendants.

Order Allowing Appeal.

On motion of F. T. Hughes, Esq., solicitor and counsel for complainant, it is hereby ordered that an appeal to the Supreme Court of the United States from the decree heretofore filed and entered herein, be, and the same is hereby allowed, and that a certified transcript of the record, testimony, exhibits, stipulations, and all proceedings be forthwith transmitted to said Supreme Court of the United States. It is further ordered that the bond on appeal be fixed at the sum

of \$1,000. The same to act as a supersedeas bond and also as a bond for cost and damages on appeal.

Dated July 18, 1920.

LOUIS FITZ HENRY,
Justice.

Indorsed: Filed July 26, 1920. R. C. Brown, clerk.

37 And afterwards, to wit: on the 26th day of July A. D. 1920, there was filed in the office of the Clerk of the District Court of the United States for the Southern District of Illinois, a certain bond on appeal, which said bond on appeal, was and is in the words and figures, following to wit:

38 In the District Court of the United States for the Southern Division of the Southern District of Illinois.

In Equity.

No. 87.

KEOKUK & HAMILTON BRIDGE COMPANY, Complainant.

VS.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER, ARCH C. WILLIAMS, J. H. HELMS, and CHAS. S. TYLER, Defendants.

Bond on Appeal.

Know all men by these presents, that we Keokuk & Hamilton Bridge Company, as principal, and James McCahan and John Cole, as sureties, of the County of Lee, State of Iowa, are held and firmly bound unto Fred Salm, Jr., Elmer F. Dennis, William E. Miller, Arch C. Williams, J. H. Helms and Chas. S. Tyler, in the sum of \$1,000, lawful money of the United States, to be paid to them and their respective executors, administrators and successors; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and each of our heirs, executors, and administrators, by these presents.

Sealed with our seals and dated this 5th day of July, 1920.

Whereas the above named Keokuk & Hamilton Bridge Company, has prosecuted an appeal to the Supreme Court of the United States to reverse the judgment of the district court for the Southern Division of the Southern District of Illinois, in the above entitled cause;

Now, therefore, the condition of this obligation is such that if the above named Keokuk & Hamilton Bridge Company shall prosecute

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its said appeal to effect and answer all costs if it fail to make good its *his* plea, then this obligation shall be void: otherwise to remain in full force and effect.

KEOKUK & HAMILTON BRIDGE CO.,

By J. H. COLE,

Its Agent in Fact.

J. H. COLE,

JAMES McCAHAN.

STATE OF IOWA,

County of Lee, ss:

On the 5th day of July, 1920, personally appeared before me John H. Cole, Agent in fact of Keokuk & Hamilton Bridge Company and John H. Cole and James McCahan, respectively known to me to be the persons described in and who duly executed the foregoing instrument as parties thereto, and respectively acknowledged, each for himself, that they executed the same as their free act and deed for the purposes therein set forth.

And the said John H. Cole, Agent in fact, and the said John H. Cole and James McCahan, being respectively by me duly sworn, says each for himself and not one for the other, that he is a resident and householder of the said county of Lee and that he is worth the sum of \$5,000 over and above his just debts and legal liability and property exempt from execution.

J. H. COLE.

J. H. COLE.

JAMES McCAHAN.

Subscribed and sworn to before me this 5th day of July, A. D. 1920.

[Notarial Seal.]

F. T. HUGHES,

Notary Public.

The within bond is approved both as to sufficiency and form this 26th day of July, 1920.

LOUIS FITZ HENRY,

Justice.

Indorsed: Filed, July 26, 1920. R. C. Brown, Clerk.

40 Afterwards, to wit: On the 26th day of July, A. D. 1920, the following further proceedings were had in said Court in said cause and were entered of record to wit:

- 41 In the District Court of the United States for the Southern Division of the Southern District of Illinois.

KEOKUK & HAMILTON BRIDGE COMPANY, Complainant.

VS.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER, ARCH C. WILLIAMS, J. H. HELMS, and CHAS. S. TYLER, Defendants.

Supersedeas Order.

This cause coming on to be heard this 26th day of July, 1920, upon the application of the appellant for an appeal to the Supreme Court of the United States, and said appeal having been allowed, it is ordered that the same shall operate as a supersedeas, the said appellant having executed bond in the sum of \$1,000 as provided by law, and the clerk is hereby directed to stay the mandate of the district court of Southern district of Illinois, until the further order of this Court.

LOUIS FITZ HENRY,

Justice.

Indorsed: Filed July 26, 1920. R. C. Brown, clerk.

- 42 And afterwards, to wit: On the 15th day of July, A. D. 1920, there was filed in the office of the Clerk of the District Court of the United States for the Southern District of Illinois, a certain motion to continue injunction pending appeal, which said motion, was and is in the words and figures, following, to wit:

- 43 In the District Court of the United States for the Southern Division of the Southern District of Illinois,

KEOKUK & HAMILTON BRIDGE COMPANY, Complainant.

VS.

FRED SALM, JR., ELMER F. DENNIS, WILLIAM E. MILLER, ARCH C. WILLIAMS, J. H. HELMS, and CHAS. S. TYLER, Defendants.

Motion to Continue Injunction Pending Appeal.

To the Honorable Louis Fitz Henry, district judge:

Your petitioner shows that it has appealed to the Supreme Court of the United States your Honor's decree, June 26th, 1920, dismissing complainant's bill. Complainant has perfected its appeal which your honor has allows and also a bill in the sum of \$1,000 which I understand your Honor fixed to serve as a bond for cost supersedeas.

Complainant now shows that while the case was pending and under advisement of your Honor, your Honor directed an order to

opposing counsel, Earl Wood, Esq., to stay proceedings in the State Court by suit or otherwise during the pendency while the case was under advisement. Mr. Wood very cheerfully conformed to your Honor's request or order, and we have no doubt and will very gladly conform to the order herein made by your Honor. However we feel that Mr. Wood would feel it his duty to proceed in the State Court from the absence of any such order from your Honor.

Complainant further shows that the carrying on of the suit in the State Court, pending this appeal will entail very large expense and costs of many witnesses, the costs of all of which would fall upon the defendants in case your Honors should be reversed in holding that Complainant's bill does not state facts entitling the plaintiff to the injunction prayed.

44 Complainant therefor prays your Honor to continue the stay of such proceedings in the State Court pending the appeal herein to the same extent and manner as was continued while the case was pending in your Honor's court.

Complainant shows that the errors in your Honor's — in so decreeing, if any, arise on the face of complainant's bill and that the hearing in this case can be had by motion under the rules of the Federal Supreme Court on any Monday after the Court meets, October next. The motion need be none other than that which was submitted by defendant's counsel in your Honor's court, only the motion would be to dismiss the appeal and not dismiss the bill. That complaint will at once be caused to be docketed in the Supreme Court and have the record printed and ready for hearing prior to the meeting of the Federal Supreme Court of October and that the matter can be heard without any unreasonable delay and the court's conclusion will determine whether the plaintiff must make its defense at law in the suit of the State court or not.

Wherefore, complainant prays your Honor to stay the proceedings as herein prayed and such order as made proper in the premises.

F. T. HUGHES AND

D. E. MACK,

Counsel for Appellant.

Indorsed: Filed July 26, 1920. R. C. Brown, clerk.

45 And afterwards, to wit: on the 3rd day of August A. D. 1920, there was filed in the office of the Clerk of the District Court of the United States for the Southern District of Illinois, a certain praecipe for transcript, which said praecipe was and is in the words and figures, following, to wit:

46 United States District Court, Southern District of Illinois,
Southern Division.

In Equity.

No. 87.

KEOKUK & HAMILTON BRIDGE COMPANY

VS.

FRED SALM, JR., County Treasurer and ex Officio Collector of Hancock County et al.

Precipe for Transcript.

The Clerk of the District Court will incorporate in the transcript of the record on this appeal in full.

1st. The bill of complaint.

2nd. Process and appearances bringing defendants into Court.

3rd. Application of appellant in Court below for preliminary injunction and appellee's motion to dismiss all in full.

4th. Order of submission with dates.

5th. Opinion of Court and decree dismissing bill of complaint in full.

6th. All papers in full as to petition for appeal to the Supreme Court bond and supersedeas allowance of appeal and citation.

F. T. HUGHES &
D. E. MACK,

Counsel for Complainant and Appellant.

Service of above accepted this 2nd day of August 1920.

EARL W. WOOD,

Counsel for Defendants and Appellees.

Indorsed. Filed August 3rd, 1920. R. C. Brown, clerk.

47 And afterwards, to wit: on the 21st day of August A. D. 1920, the following further proceedings were had in said Court in said cause and were entered of record to wit:

In the District Court of the United States for the Southern District
of Illinois, Southern Division.

In Equity.

No. 87.

KEOKUK & HAMILTON BRIDGE CO.

VS.

FRED SALM, JR., et al.

And now on this 21st day of August A. D. 1920, comes the complainant herein by Messrs. D. E. Mack and Felix T. Hughes, its solicitors and on their motion, it is ordered by the Court that the time for filing the transcript of record herein in the Supreme Court of the United States, be, and the same is hereby extended to ten days from and after August 24th, A. D. 1920.

48 UNITED STATES OF AMERICA, ss:

The President of the United States to Fred Salm, Jr., Elmer F. Dennis, William E. Miller, Arch C. Williams, J. H. Helms, and Charles S. Tyler, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at City of Washington, in the District of Columbia, within thirty days from the date hereof, pursuant to an appeal filed in the Clerk's Office of the District Court of the United States for the Southern District of Illinois, Southern Division, wherein the Keokuk & Hamilton Bridge Company is complainant and appellant and you are defendants and appellees, to show cause, if any there be, why the decree rendered against the said appellant in error as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Louis Fitz Henry, Judge of the District Court of the United States, this 26th day of July, in the year of our Lord one thousand nine hundred and twenty.

LOUIS FITZ HENRY,
U. S. District Judge.

Service of the foregoing Citation and receipt of a copy thereof is hereby admitted this 2nd day of August A. D. 1920.

EARL W. WOOD,
Solicitor for All Defendants.

Indorsed: Filed August 3rd, 1920. R. C. Brown, clerk.

49 UNITED STATES OF AMERICA,
 Southern District of Illinois,
 Southern Division, ss:

I, R. C. Brown, Clerk of the District Court of the United States for the Southern District of Illinois and keeper of the records and Seals thereof, do hereby certify the foregoing to be a true and complete transcript of the proceedings had of record in said Court, made in accordance with Preceipe filed in the cause entitled Keokuk & Hamilton Bridge Company, a corporation, vs. Fred Salm, Jr., et al. as the same appear from the original Records and Files thereof now remaining in my custody and control.

In testimony whereof, I have hereunto set my hand and affixed the Seal of said Court at Springfield, in said District this 23rd day of August, A. D. 1920.

[Seal of the District Court United States, Southern District
Illinois.]

R. C. BROWN,
Clerk.

Endorsed on cover: File No. 27,869. S. Illinois D. C. U. S. Term No. 512. Keokuk & Hamilton Bridge Company, appellant, vs. Fred Salm, Jr., Elmer F. Dennis, William E. Miller, et al. Filed August 28th, 1920. File No. 27,869.